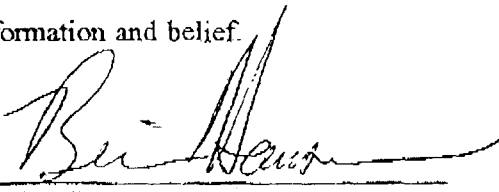


simply not commercially feasible at this time. America's Health looks forward to the day when it will be financially capable of making captioned programming available to our valued subscribers, of whom persons with hearing disabilities constitute a sizeable portion. Unfortunately, given current market conditions and captioning costs, this will not occur until the Network reaches its minimum level of distribution for commercial viability. Until that time, the Commission should refrain from imposing this substantial burden on America's Health.

27. For these reasons, America's Health urges the Commission not to adopt the closed captioning rules as presently proposed. If the Commission chooses to enforce mandatory captioning requirements, it must, as proposed in the accompanying Comments, exempt by regulation all video programming distributed by low-penetrated networks until such time as they serve at least 20 million subscribers. America's Health, at this early stage in its development, sees no viable option for passing along its closed captioning costs, and simply cannot afford to absorb the tremendous cost of captioning substantial amounts of its programming. An exemption for new programming networks based on low subscriber penetration is the only way that the Commission can avoid the disparate and potentially disastrous effects that its proposed captioning rules will have on start-up, niche programming services such as America's Health.

I, Brian Hansen, certify, under penalty of perjury, that the foregoing information is true and correct to the best of my knowledge, information and belief.



Brian Hansen

February 28, 1997

# **EXHIBIT 1**

# CHANNEL LINEUP

Optional PPV and Premium Services are indicated below by white channel numbers in black squares. Channels broadcast in stereo are indicated by a symbol.

**1** <sup>(2)</sup> **Premium PREVUE CHANNEL** Top Event and Premium Channel listings with video previews.

**2** <sup>(33)</sup> **PREVUE CHANNEL** Continuously updated program listings with video previews.

**3** <sup>(3)</sup> **Entertainment Television** 24-hour-a-day entertainment news and information on movies, television, music, books and theater.

**4** <sup>(34)</sup> **NBC 4** **WRC Channel 4 - NBC** Washington, DC

**5** <sup>(35)</sup> **5 WTTG** **WTTG Channel 5 - FOX** Washington, DC

**6** <sup>(36)</sup> **TOP EVENT** Previews and schedule information for pay-per-view features.

**7** <sup>(37)</sup> **ON YOUR SIDE** **WJLA Channel 7 - ABC** Washington, DC

**8** <sup>(38)</sup> **NEWS 8** Local news, weather, sports, traffic and more.

**9** <sup>(39)</sup> **WUSA TV 9** **WASHINGTON DC CBS** Washington, DC

**10** <sup>(40)</sup> **CHANNEL 10** **Fairfax Cable Access Corporation** Public Access Programming.

**12** <sup>(42)</sup> **cityscreen12** **Fairfax City Government Channel**

**13** <sup>(43)</sup> **The 4-in-1 Channel** Watch NBC, CBS, ABC and CNN on one channel simultaneously.

**14** <sup>(44)</sup> **WTMW Home Shopping** Featuring HSC (Spree Shopping)

**15** <sup>(45)</sup> **WGN** **Your Chicago Superstation**

**16** <sup>(46)</sup> **FAIRFAX COUNTY GOVERNMENT** **16** News and information on Fairfax County issues, 24 hours a day.

**17** <sup>(47)</sup> **TBS SuperStation** **Your Atlanta Superstation**

**18** <sup>(18)</sup> **C-SPAN** **SAP - C-SPAN Audio Network 1** Live coverage of the U.S. House of Representatives and related public affairs programming.

**19** <sup>(19)</sup> **C-SPAN 2** **SAP - C-SPAN Audio Network 2** Live coverage of the U.S. Senate and related public affairs programming.

**20** <sup>(20)</sup> **WDCA** **WDCA Paramount 20** Washington, DC

**21** <sup>(21)</sup> **21** **Fairfax County Public Schools** School-related programming, news and announcements.

**22** <sup>(22)</sup> **MPT** **Channel 22 - PBS** Maryland Public Television

**23** <sup>(23)</sup> **TOWN OF HERNDON** **ACCESS CHANNEL** Locally originated programming, 100% volunteers.

**24** <sup>(24)</sup> **SAMPLER CHANNEL** Features month-long programming samples from new cable networks

**25** <sup>(25)</sup> **25** **Fairfax County Public Schools** Adult education, tele-courses and instructional programming for students.

**26** <sup>(26)</sup> **WETA** **PBS** Washington, DC

**27** **Dulles Airport Channel** Arrival and departure schedules for major airlines at Dulles International Airport.

**28** **National Airport Channel** Arrival and departure schedules for major airlines at National Airport. Plus WNET - AM 1150 - Business radio audio

**29** <sup>(29)</sup> **MEGA Tour Of Homes** A video tour of new and resale properties throughout Northern Virginia.

**30** <sup>(30)</sup> **CHANNEL 30** Non-profit, public access channel featuring locally produced, internationally oriented programming.

**31** <sup>(31)</sup> **MEGA VIDEO MARKETPLACE** Video classifieds channel featuring the Tele-Personals Network and Career Search 31.

**32** <sup>(32)</sup> **32 WTTM TV** **Howard University** Washington, DC Cable jazz Channel (12:30am-6am weekdays, 1am-8am weekends)

**34** **CNN** 24-hour Consumer information channel

**35** <sup>(55)</sup> **CUE** Information on MGC operations and services, plus community activities. Also seen on Channel 55

**36** <sup>(36)</sup> **NASA** Features live mission coverage and space exploration news and educational programming.

**37** <sup>(7)</sup> **FAN 37** **FAIRFAX ACCESS NETWORK** Interactive bulletin board and community-oriented programming

**38** <sup>(38)</sup> **Falls Church City Television** Public education and local government access.

**43** <sup>(13)</sup> **FINET** **Political NewsTalk Network** Public Affairs Programming 4 PM-6 AM Weekdays: 24 hrs. Weekends

**44** <sup>(44)</sup> **Fairfax County Public Library** **Fairfax County Public Library**

**46** **International Channel** Foreign programming including Korean, Japanese, Chinese, Filipino, Hindi, Vietnamese, Hebrew and French.

**47** **AA** **Arab Network of America, Inc.** Arabic language programming featuring MBC News, entertainment and local productions.

**48** <sup>(48)</sup> **George Mason University** Credited college courses and related educational programming.

**49** <sup>(49)</sup> **NVC** **Northern Virginia Community College** Credited College Courses

**50** <sup>(50)</sup> **WB50** **WBDC-TV** **WBDC-TV Warner Brothers Network** Washington, DC

**51** <sup>(51)</sup> **C-SPAN 3** Mon.-Fri.: 9 AM-5 PM Public Affairs programming with live event coverage.

**52** <sup>(52)</sup> **WWVI 6 TV** Manassas, Virginia

**53** <sup>(53)</sup> **wnvt 53** **PBS - Northern Virginia Television**

**56** <sup>(56)</sup> **WVVC** **56 WORLD VIEW TV** **FAIRFAX, VA** **Fairfax PBS**

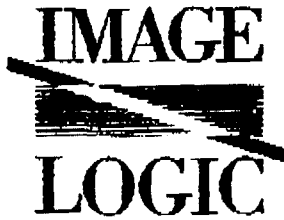
**57** **T64 TELEMUNDO** **WASHINGTON, D.C.** Quality Spanish language programming including top national and international news, sports and entertainment.

**58** <sup>(68)</sup> **UNIVISION** Featuring the best in international Spanish language programming.

**61** <sup>(61)</sup> **BET** **Urban Contemporary Programming** Music, news, sports and comedy programs.

<p><b>62</b>  SAP - Spanish Audio Features cartoons from Hanna-Barbera, MGM, Warner Bros. and Paramount, plus original animated specials.</p>	<p><b>80</b>  24 hours of live news coverage, interviews and sports news.</p>	<p><b>100</b>  Original specials, classic movies and television series.</p>
<p><b>63</b>  Comedy Central Sitcoms, specials and stand-up performances.</p>	<p><b>81</b>  All movies, 24 hours a day, with special film festivals and VCR Overnight.™</p>	<p><b>101</b>  Live national, regional and local weather reports and information, 24 hours a day.</p>
<p><b>64</b>  Award-winning non-violent programming for children.</p>	<p><b>82</b>  America's quality cable home shopping network.</p>	<p><b>102</b>  Radar Weather 24-hour-a-day color radar weather for Washington, DC, and vicinity.</p>
<p><b>65</b>  The Disney Channel Original films, new features and timeless Disney favorites.</p>	<p><b>83</b>  Home Shopping Network National home shopping service, 24 hours a day.</p>	<p><b>103</b>  Programming showcasing the home, including decorating, home repair &amp; remodeling, gardening and hobbies.</p>
<p><b>66</b>  SHOWTIME-2 Additional viewing options of Showtime programming, free to all Showtime subscribers.</p>	<p><b>84</b>  Innovative, on-the-edge coverage of live sports events, news and recreation.</p>	<p><b>104</b>  24-hour news, talk and information network featuring NBC News anchors. Interactive Web Site: <a href="http://www.msnbc.com">http://www.msnbc.com</a></p>
<p><b>67</b>  SAP - Spanish Audio Hit movies and original entertainment specials 24 hours a day.</p>	<p><b>85</b>  The 24-hour sports network.</p>	<p><b>105</b>  COURT TV COURTROOM TELEVISION NETWORK</p>
<p><b>68</b>  Classic movies from Hollywood's golden era, 24 hours a day.</p>	<p><b>86</b>  The Mid-Atlantic's regional sports network showcasing sporting events of regional and national interest.</p>	<p><b>106</b>  Travel programming and information on tours, cruises and airlines, 24 hours a day.</p>
<p><b>69</b>  The Family Channel 24 hours a day of wholesome variety programming.</p>	<p><b>TOP EVENT</b></p> <p>month's features include:</p> <ul style="list-style-type: none"> <li>• Time to Kill</li> <li>• The Island of Dr. Moreau</li> <li>• Mission Impossible</li> <li>• She's the One</li> </ul> <p>See pages 126-128 for schedules.</p>	
<p><b>70</b>  Arts &amp; Entertainment Network Original biographies, mysteries and specials.</p>		
<p><b>71</b>  Award-winning films and performing arts.</p>		
<p><b>72</b>  SAP - Spanish Audio Home Box Office Additional viewing options of HBO programming, free to all HBO subscribers.</p>		
<p><b>73</b>  SAP - Spanish Audio Home Box Office A 3rd channel of HBO programming, free to all HBO subscribers.</p>		
<p><b>74</b>  SAP - Spanish Audio Home Box Office 24 hours of hit movies, exclusive sports, and superstar specials.</p>	<p><b>94</b>    </p>	<p><b>107</b>  Turner Classic Movies Commercial-free classic movies, plus shorts, trailers, outtakes and screen tests.</p>
<p><b>75</b>  SAP - Spanish Audio 24 hours of sports and variety programming for all ages.</p>	<p><b>95</b>  Features historical documentaries, movies and miniseries.</p>	<p><b>108</b>  24-hour adult contemporary music videos plus CD and cassette sales.</p>
<p><b>76</b>  SAP - Spanish Audio 24 hours of movies, music, comedy specials and film festivals.</p>	<p><b>96</b>  Family-oriented non-fiction TV on science, history, technology and human adventure.</p>	<p><b>109</b>  THE NASHVILLE NETWORK Country music, comedy and variety shows.</p>
<p><b>77</b>  SAP - Spanish Audio Additional viewing options of Cinemax programming, free to all Cinemax subscribers.</p>	<p><b>97</b>  Documentaries, how-to shows, and commercial-free programs for preschoolers.</p>	<p><b>110</b>  VH-1 Light rock videos, interviews and updates.</p>
<p><b>78</b>  Fast-paced headline news service, 24 hours a day.</p>	<p><b>98</b>  The Consumer News and Business Channel.</p>	<p><b>111</b>  24 hours of country music videos.</p>
<p><b>79</b>  Programming for today's woman on health, fitness, beauty, fashion and relationships.</p>	<p><b>99</b>  Featuring the best in science fiction, science fact, fantasy and horror.</p>	<p><b>112</b>  24-hour rock music videos plus concerts and music specials.</p>
		<p><b>115</b>  Trinity Broadcasting Network Religious and inspirational programming.</p>
		<p><b>116</b>  Christian family values programming.</p>
		<p><b>118</b>  EWTN Catholic family programming 24 hours a day.</p>
		<p><b>119</b>  KALEIDOSCOPE Fully accessible, family oriented programs. 5am-5pm Weekdays</p>
		<p><b>120</b>  Financial Network Weekdays 7am-9pm</p>

## **EXHIBIT 2**



February 19, 1997

Dear Ms. Barito:

Here are the key parts of today's telephone conversation about captioning:

**REAL-TIME Captioning**

*Real-time* captioning is captioning while the event is happening. It requires a line 21 closed caption encoder and an operator who has special equipment. It may require a modem.

Real-time closed captioning is characterized by captions which scroll vertically in the lower quarter of the screen. Some, but not all, decoders allow the captions to scroll in the top quarter of the screen.

The challenge in real-time captioning is just to get the speaker's words on the screen with a minimum of errors. There is no time to edit out sentence fragments, clean up grammar or to correct errors. Speed and accuracy are the hallmarks of a good real-time captioner.

**Who does *real-time* captioning?**

The operator is a person trained as a stenographer. It typically takes at least five years to become proficient.

Technically, any court reporter could supply a signal to the line 21 encoder; however, most court reporters make too many mistakes. A smaller group of court reporters are able to transcribe with very good accuracy, these reporters call themselves *real-time reporters*. An even smaller group is both accurate and able to instinctively paraphrase when the speaker is talking faster than the roughly 180 words per minute maximum that folks can read. This last group are genuine *real-time captioners*. There are roughly 150 *real-time captioners*.

The operator will supply his or her own equipment (I would be very wary of an operator who claims experience but doesn't have his or her own equipment!). Stenographic equipment is rarely interchangeable between operators.

**What equipment do I need?**

All you need is a line 21 closed caption encoder. The *real-time captioner* supplies the rest.

It is a good idea to either have a modem (1200 baud) built in to the line 21 closed caption encoder or as a separate unit. The modem will allow captioning by real-time captioners located anywhere your video/audio signal reaches. This will greatly increase the pool of potential *real-time captioners* bidding for your work.

#### What does labor cost?

Real-time closed captioning operators rarely charge less than \$100 an hour. Typically, they can work for a maximum of 4 hours at a stretch, so longer sessions require two operators.

When a real-time captioner comes to your site they often charge travel time and an additional hour for setup. Using a modem can avoid these charges.

#### What does hardware cost?

A good quality line 21 closed caption encoder for digital video costs \$3,250. This same line 21 encoder can be used for *off-line* captioning too. A built-in modem costs an additional \$150.

Other incidental hardware may add \$100 for a few cables and the rack space.

I would recommend not letting anyone talk you into purchasing stenographic equipment; however, if you decide to purchase stenographic equipment for closed captioning I can give you the name of a fellow who bought \$25,000 worth of brand-new equipment which the vendor won't take back and which he wants to sell.

#### OFF-LINE captioning

*Off-line* captioning is captioning during post production. It requires a line 21 closed caption encoder, a time code reader, a remote control interface to a VHS/SVHS deck, hardware to visualize captions, and specialized software. The operator must be literate but does not require extensive training.

Off-line captioning is characterized by captions which "pop-up" on the screen. The captions can be positioned just about anywhere on a 15 line by 32 character grid in the safe-title area. Some, but not all, decoders allow you to make color captions.

The challenge in off-line captioning is to maintain production values. The captions should not intrude or distract the viewer. And the hallmark of a good off-line captioner are captions that communicate and work with the video (ie: when possible, captions pop-up at edits and not 6 frames later to create a distracting visual flutter).

#### Who does *off-line* captioning?

It takes about 6 months to develop proficiency as an off-line captioner. Most of that time is spent learning stylistic issues.

The ideal person is a bit anal retentive and has a good grasp of the English language. I also suggest someone who has some sort of personal tie to deafness - the best captioners all seem to have a deaf relative or close friend.

#### What is the *off-line* captioning process?

It's the same as making and using an edit decision list (EDL) to auto assemble a video segment.

The first step is to simply transcribe the audio. Write with any word processor that suits your fancy. People often use an audio cassette transcriber rather than transcribing directly

from video. One outfit we know of gives the audio dubs to the local secretarial school for discount transcription.

The second step is to break the text into captions by simply inserting lines to distinguish one caption from the other. Again, you can do this on your favorite word processor.

The third step uses **AUTOCAPTION** to tag each caption with a time code. Play a time coded copy of the video. When you press a key, time code is automatically grabbed and assigned to the next caption.

The fourth step is to review your work. Are reading rates reasonable? Are the captions in the right place. The system automatically cues the tape to any caption you want to work on.

The fifth step is to play the master with **AUTOCAPTION** *encoding station* monitoring the time code and automatically sending the captions to the line 21 encoder or *character generator* at just the right time.

#### What equipment do I need?

**AUTOCAPTION** is a complete system (time code reader, direct caption card, tape deck interface, and software) from a single manufacturer. Other than the following, there's nothing else to buy.

- A VHS/SVHS deck that supports time code (preferably with internal time code).
- A '386/33 or faster DOS computer with monochrome text monitor or better.
- A video monitor.
- An **AUTOCAPTION** Studio Caption system (\$6,730).
- A line 21 closed caption encoder (\$3,250).
- A handful of cables and a comfortable chair.

This will give you a dual purpose input and encoding station on a single computer. By adding another DOS computer you can split the system into an *input station* and a separate *encoding station*.

The advantage of splitting the system is convenience and cost. You can set up *the encoding station* up convenient to where you have the master tapes. Because it takes at least four times as long to schedule the captions at the input station, one encoding station can easily support five input stations (I'd suggest one encoding station for every seven input stations).

Each additional input station requires the following:

- A VHS/SVHS deck that supports time code (preferably with internal time code).
- A '386/33 or faster DOS computer with monochrome text monitor or better.
- A video monitor.
- An **AUTOCAPTION** input station (\$1,990).
- A handful of cables and a comfortable chair.



### What does labor cost?

Salaries for journeyman captioners seem to be between \$21,000 and \$32,000 per year. However, I have heard that the big institutional captioners (NCI, WGBH, and VITEC) require the prospective employee sign a multi-year contract before being trained as a captioner. This "indenturing" suggests that there is a demand for trained captioners.

A journeyman captioner takes four to six times the length of the tape to caption the tape. In other words, a professional will take four to six hours to caption a one hour tape.

Inexperienced captioners seem to take about twelve times the length of the tape. For example, I know of some college students doing captioning at a part time rate of \$8.50 an hour who are about this efficient.

### Other options

One possibility is to use institutional captioners (estimate \$1600 per tape hour in volume), independent captioners (estimate \$1200 per tape hour for steady work), and slam-dunk captioners (\$550 per tape hour). The institutional captioners will do fine work but may not be very sensitive to the game of golf. Independent captioners vary widely, from the best captioners on earth to some pretty awful captioners who do what I call "slam-dunk" captioning. Slam-dunk captioning is when the captioner takes your transcript and simply puts it on the screen without much concern for where it appears or when it appears or if the viewer can hope to read that fast – this is generally done as lip-service to ADA requirements.

I know of one independent captioner with fine credentials who happens to be a first order golf addict. Pam Priddy at CaptioNation (301 353-8812) might be a valuable resource for you as well as someone who could get your captioning operation started. I recommend her.

Don't forget that by overnighting a VHS copy of the video you can have any off-line captioner in the world E-mail back the necessary schedule for you to caption the tape in house. This gives you reserve capacity and out-of-house alternatives.

I hope this epistle helps!

A handwritten signature in black ink, appearing to read 'Win Wiencke', with a stylized, cursive script.

Win Wiencke